

**REPORT - PLANNING COMMISSION MEETING  
November 17, 2005**

**Project Name and Number:** Warm Springs Village (PLN2005-00292)

**Applicant:** Terry Wang – KB Home South Bay

**Proposal:** To consider a Preliminary and Precise Planned District for the development of 94 townhomes/flats, 105 condominium units and 146 detached townhomes, and associated landscaping, private open space, access and circulation improvements.

**Recommended Action:** Recommend to City Council

**Location:** 48921-48979 Warm Springs Boulevard, 48923-48999 Kato Road and 48887 Kato Road on the edge of the Warm Springs Planning Area.

**Assessor Parcel Number(s):** 519-1010-054-03, 519-1010-058-03, 519-1010-061

**Area:** Lot Area is 18.35 +/- acres

**Owner:** Cal-West Industrial Properties

**Agent of Applicant:** Richard Frisbie, Frisbie Planning Company

**Consultant(s):** HMM Engineers, KTG Architects, Strauss Design Group, Randall Planning & Design

**Environmental Review:** This project and anticipated development was previously reviewed under CEQA (PLN2004-00272) per the Housing Element Implementation Program and a Mitigated Negative Declaration was adopted on July 13, 2004.

**Existing General Plan:** Medium Density Residential, 11-15 units/acre, 18-23 units/acre and 23-27 units/acre

**Existing Zoning:** R-3-15, R-3-18 and R-3-23

**Existing Land Use:** Industrial and warehouse buildings

**Public Hearing Notice:** A total of 60 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Kato Road, Warm Springs Boulevard, Milmont Drive, and to occupants within the Mayfield development adjacent to the south. The notices to owners and occupants were mailed on November 4, 2005. A Public Hearing Notice was delivered to The Argus on October 31, 2005 to be published by November 4, 2005.

**Executive Summary:** The existing industrial site has recently been re-designated and rezoned to multi-family residential through a City-initiated process as part of the Housing Element Implementation Program. The project site contains three General Plan medium density residential designations resulting in three density ranges, each with a different midpoint. The applicant has requested a Planned District rezoning for the purposes of developing a new residential neighborhood with three product types. The three product types include condominium units in a four-story podium structure, attached townhomes and flats, and detached townhomes. The primary purpose of the Planned District is to allow the project to average the density over the project site cumulatively as a whole instead of meeting each midpoint independently. The project also includes substantial site, landscape, circulation, access, grading and drainage improvements.

**Background and Previous Actions:** A City-initiated General Plan Amendment and Rezoning, PLN2004-00272, was approved on July 13, 2004. The purpose of that action was to change the land use of the project site from industrial to residential to facilitate multi-family residential development as contemplated by the Housing Element Implementation Program. The associated Mitigated Negative Declaration, PLN2004-00272, was also adopted on July 13, 2004. This

environmental document evaluated the potential impacts of the proposed project per the General Plan Amendment and Rezoning and outlined the required mitigation measures necessary to reduce potential impacts to less than significant levels.

**Project Description:** The proposed project is a major infill redevelopment. The existing site contains large industrial and warehouse/storage buildings and associated parking and circulation improvements. Landscape improvements and numerous mature trees also exist on site. To prepare the site for this development all buildings and existing site improvements will be demolished. The proposed project consists of 342 residential units, a community building, a private park and associated landscape, circulation, parking and drainage improvements. Some minor street improvements and re-stripping would also occur along Kato Road and Warm Springs Boulevard.

The applicant is proposing three different residential product types with this project. The product types consist of:

- 142 “detached townhomes”.
- 95 attached townhomes and “flats” in 5, 6 and 7 unit buildings.
- 105 condominium units in a 4-story courtyard building over podium parking.

The “detached townhome” is a relatively new product type that is being proposed in the City. This type of unit has characteristics of both single-family dwellings and multi-family townhomes. It is similar to a single-family dwelling in that it is a detached product on its own single lot of record. It is also similar to a multi-family townhome in that yard sizes are limited to patios and small landscaped areas and the overall size of the units are not in proportion to their lot size in respect to lot coverage. Ten feet of separation exists between the units.

Attached townhomes and “flats” are proposed for the northeast portion of the site and will be located in 5, 6 and 7 unit buildings. Private open space is provided by private patios or balconies located at the front of the building. Each building has two flats on each end with each “flat” occupying one floor of living space. The buildings are three stories with the ground floor used for garages. Both the attached and detached townhome portion of the project is designed to include auto-courts, approximately 140 feet in length, which provide vehicular access to the units and internal “paseos” that provide pedestrian access to the front doors of the units. The pedestrian circulation system of paseos throughout the entire site is thorough and well connected in that all sidewalks and pedestrian ways are linked. However, the design of the pedestrian system and internal paseos is such in that it creates numerous dead-ends as part of the auto-courts.

The condominium building provides an internal courtyard as part of its open space component and sub-grade indoor parking that is approximately one-half story underground. The condominium building consists of 1,2,3 and 4 bedroom units. In addition to the courtyard, the units include outdoor patios and terraces that also provide outdoor open space.

An approximate 2,300 square foot community building is also included as part of the project. The community building consists of a fitness room, multi-purpose room, restrooms and a kitchen. The community building is adjacent to a private park that fulfills the common open space requirement for the project. The park is approximately 37,000 square feet in size with an open lawn area, landscaping, playground structure, benches, picnic tables and patio area. The park is centrally located within the project site, is linked to the pedestrian system and easily accessed throughout the entire site.

The project also includes various site and landscape improvements to help enhance the design and livability of the project. These improvements include landscaping in various forms throughout the site, drainage swales to help improve stormwater quality, circulation and access improvements (private streets) including guest parking, decorative pavement materials and speed tables for traffic calming purposes. Where appropriate speed tables will incorporate special paving and crosswalks (Condition A-26).

## **PROJECT ANALYSIS:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is Medium Density Residential, 11-15 units/acre, 18-23 units/acre and 23-27 units/acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed project meets the intent of medium density residential designation by achieving compliance with the midpoint density range. However, the applicant is proposing to

average the density of the entire project to meet the overall midpoint range of each existing R-3, Multi-Family Zoning District instead of meeting each midpoint independently for the three separate parcels which form the cumulative project site. In this case, based on the following calculation, a minimum of 335 units are required where 342 units are provided.

- Medium Density Residential, 11-15 units/acre – midpoint of 13 units x 10 acres = **130 units**
- Medium Density Residential, 18-23 units/acre – midpoint of 20.5 units x 0.85 acres = **17 units**
- Medium Density Residential, 23-27 units/acre – midpoint of 25 units x 7.5 acres = **188 units**
  
- **Total Units Required = 335**

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

**Housing Goal 2** – *High quality and well-designed new housing of all types throughout the City.*

**Land Use Goal 1** – *New housing development while conserving the character of the City's existing single family residential neighborhoods.*

The project conforms to this policy because it conserves the quality and character of nearby residential neighborhoods.

**Land Use Policy 1.1** – *Residential as the primary use allowed in residentially designated areas. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.*

The project conforms to this policy because residential is the primary use being proposed in this residentially designated area in conformance with the required density.

**Land Use Policy 1.11** – *Appropriate transitions shall be encouraged between higher density residential areas and commercial and lower density residential areas. Transitions can be composed of streets, setbacks, open space, landscape and site treatments, building design and other techniques.*

The project conforms to this policy because the transitional areas between this residential site and nearby industrial uses consist of an Alameda County Flood Control Channel, two sets of railroad tracks and a major arterial roadway.

**Land Use Policy 1.12** – *To maximum extent feasible, play areas shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.*

The project conforms to this policy because the common open space has been centrally located and is well connected to the entire development via pedestrian walkways.

**Land Use Policy 1.13** – *Buildings shall be designed to provide for maximum feasible visual and auditory privacy for each unit through the use of site design, open space, landscaping and appropriate building materials.*

The project conforms to this policy because the buildings have designed and sited to minimize impacts and ensure privacy. Landscaping and open space have also been designed to provide screening and buffering and the open space area has been located internally within the project site.

**Land Use Policy 1.17** – *Where open space has been considered as an element in the design of a residential development project, further development or encroachment on the open space by new buildings shall be strongly discouraged. Where feasible, project open space shall be permanently restricted to open space through deed restriction or other appropriate means.*

The project conforms to this policy because the common open space area is required to remain as open space through the conditions of approval for the Planned District, Condition A-1.

**Land Use Policy 1.23** – *A variety of unit types and sizes shall be encouraged within each multi-family project.*

The project conforms to this policy because a three product types are proposed, each with a variety of floor plans and unit sizes.

**Land Use Policy 1.25** – *Where several multi-family projects are on adjacent parcels of land, a variety of architectural and site design treatments shall be encouraged. However, an architectural or landscape design theme for several parcels may be appropriate.*

The project conforms to this policy because each product type has been designed independently although in a manner to complement each other. An overall landscape theme has been provided for the project that complements the entire site.

**Zoning Regulations:** The proposed project involves a rezoning of three parcels with different multi-family residential districts, R-3-15, R-3-23, and R-3-27 to a Planned District. However, the intent of the R-3 Multi-Family Zoning district is still being met by the project which provides a variety of multi-family housing options with range of density throughout the entire site. The primary need for a Planned District is due to the applicant proposing to average the density of the overall project across the entire site instead of meeting each density range independently.

Overall, the proposed project does meet many of the requirements of the R-3, Multi-Family Zoning District in regards to building separation, setback and yard requirements. It also meets the intent of the architecture and site design standards in regards to the contextual relationship to adjacent development; articulating the building front, side and rear elevations; a comprehensive pedestrian circulation system; landscaping all yard areas; and, providing adequate interior storage.

However, one exception to the zoning standards is in regards to height limits. The R-3, Multi-Family Zoning District allows height limits up to 52 feet when those areas of the parcel are not within 50 feet of property with a General Plan density designation of ten units or less. However, the height of the condominium building ranges from 54-58 feet with the tower elements at 60 feet. Staff feels this increased height limit is justified given the density range that needs to be met and that the articulation, massing and bulk of the structure has been designed to lessen the impact on adjacent properties and buildings.

**Inclusionary Zoning:** The project meets the City's Inclusionary zoning requirements through the inclusion of 51 for-sale Below Market Rate (BMR) units. These units will consist of a variety of unit types and will be located throughout the project (Condition A-21). It is the intent to allocate the BMR units in a manner consistent with the three product types provided; detached townhome, attached townhome and condominium based on the overall percentage of each product type provided in regards to the total number of units. Of the 342 units provided, 142 or 42% are proposed as detached townhomes, 95 or 28% are proposed as attached townhomes, and 105 or 30% are proposed as condominiums.

Based on these percentages, the total number of 51 BMR should be dispersed throughout the project as follows:

- 21 or 42% as detached townhomes
- 15 or 28% as attached townhomes
- 15 or 30% as condominiums

**Parking:** The project is required to provide a total of 681 parking spaces, 509 spaces for residents and 172 spaces for guests. The project provides a total of 799 parking spaces, 633 for residents and 166 spaces for guests. The project provides more resident parking than required because each townhome unit provides two (2) covered parking spaces as opposed to the minimum required of 1.5 spaces per unit. The provided guest parking is short six (6) spaces and does not meet the requirement of 172 spaces; however, the applicant justifies this small offset by the additional 124 spaces of covered resident parking. It appears an additional four guest parking spaces can be accommodated in the western portion of the project. The applicant shall work with staff to maximize guest parking to the extent feasible (Condition A-27). The following table summarizes the required and provided parking for the project:

Unit Type	Detached Townhome	Attached Townhome	Condominium	Total
Number of Units	142	95	105	342
Resident Parking Required	213 (142 covered, 71 uncovered)	143 (95 covered, 48 uncovered)	153 (105 covered, 48 uncovered)	509 (342 covered, 167 uncovered)
Resident Parking Provided	284 (covered)	190 (covered)	159 (covered)	633 (covered)
Guest Parking Required	71 (uncovered)	48 (uncovered)	53 (uncovered)	172 (uncovered)
Guest Parking Provided	87 (uncovered)	39 (uncovered)	40 (uncovered)	166 (uncovered)
Total Parking Provided	371	229	199	799

Tandem parking is proposed in some instances within the overall development. The condominium building provides tandem spaces for 39 of the 105 total units, 37%. These spaces are proposed as a compact space in conjunction with one standard size space. The overall length of the tandem space is 35 feet, 19 foot standard and 16 foot compact space. The Zoning Ordinance allows 35% of the required spaces to be compact. The condominium building requires 206 spaces, 39 spaces of which are proposed as compact, or 19% which conforms to the compact requirement. The condominium building includes 40 guest parking spaces immediately outside adjacent to the building.

The attached townhomes provide tandem spaces for 18 of the 95 total units, 19%, proposed as the second story flats. The overall length of the tandem space in the attached townhomes is 41 feet, two standard 19 feet spaces with an additional 3 feet of extra space.

**Open Space/Landscaping:** Per the R-3 Multi-Family Zoning District, the project is required to provide a minimum of 17,600 square feet of common open space. In addition to the common open space requirement, the project is required to provide private open space for each unit at a minimum of 60 square feet for balconies and 100 square feet of patios. The project meets these requirements by providing approximately 37,000 square feet of common open space, an approximate 2,300 square foot community building and a variety of balcony and patio areas for the individual units that meet the minimum size requirements.

The common open space is provided in the form of a private, landscaped park generally located within the center of the development. The park is well positioned and connected to the entire development through the pedestrian circulation system. This area contains an open lawn area, landscaping, playground structure, benches, picnic tables and patio area adjacent to the community building. The community building contains a fitness room, multi-purpose room, restrooms and a kitchen.

Landscaping is provided throughout the development. Landscape buffers and setbacks are provided that generally meet the minimum requirements of the Zoning Ordinance with some minor exceptions in certain locations. However, in some instances, the landscape buffers have been enlarged to include bio-swales for the treatment of stormwater runoff.

**Waste Management:** This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The project will comply with requirements of the Waste Management Act by providing individual trash/recycling bins for each detached and attached townhome. The owners of individual units in conjunction with the Homeowners Association (HOA) will ensure that bins are set out on collection day. Two trash and recycling areas with compactors are included in the condominium building for these residents. The HOA in conjunction with the maintenance company contracted to provide site and landscape maintenance will ensure the trash/recycling bins are positioned for trash collection (Condition #A-18).

## **DESIGN ANALYSIS:**

**Architecture:** The basis for architectural design incorporated into this project results from an attempt to create a traditional neighborhood, and also drawn from the Spanish heritage reflected in the Rancho del Agua Caliente, the Warm Springs District of Fremont and the historic Mission San Jose architecture. The architectural style varies slightly between product types and will be discussed individually.

### ***Detached Townhomes***

The detached townhome component of the project consists of 142 units. This type of housing product was chosen, in part, because the smaller lots they occupy help to achieve the density required by the General Plan. This product type contains three (3) architectural styles and floor plans ranging in size from 1,758 to 2,020 square feet, excluding the 510 square foot garage, and three (3) distinct elevations for each style with nine (9) color schemes. This results in 81 variations of color and design for the detached product. However, the color palette chosen for these units is quite similar and will be subject to further review and approval by staff during the Development Organization review (Condition A-25).

Architectural styles are identified as Spanish, Italianate and Monterey. The Spanish style (Plans 1A, 2A, 3A) is articulated by the use of shutters, wrought iron detailing, flared build outs and gable roof elements. The Italianate style (Plans 1B, 2B, 3B) is characterized by its use of lower pitched hip roofs with villa tile, stone rustication and window mullions. The Monterey Style (Plans 1C, 2C, 3C) is identified by its full façade balcony element expressed by wood posts and beams. The hip and clipped roof provides a modest frontage while addressing the street with visual depth and detail. Additional details have also been added to the corner units to provide greater interest along the street.

### ***Attached Townhomes***

The architecture of the attached townhome units are characterized by three similar styles, Spanish, Spanish Colonial and Monterey. The attached townhomes are provided in 5, 6 and 7 unit buildings generally located in the northeast portion of the site. The intent of providing three architectural styles is to provide variation and interest in one overall building. The homes integrate well and blend with the detached townhomes and condominium building by utilizing traditional building massing and form while integrating details of the three styles. The primary building material is cement plaster with a variety of details incorporated to enrich the architectural style. These details include decorative trim, brick veneer, clay tile vents, shutters, rafter tails, decorative light fixtures and wrought iron ornamentation. Roofs are a combination of hip and gabled roof forms with barrel and flat tiles depending on the style. The corner units on this product also include front doors and articulation to provide interest and enhance the streetscape. The color schemes chosen for the attached product also include nine (9) variations with a range of color choices.

### ***Condominium Building***

The condominium building is proposed at four (4) stories on a podium with sub-grade parking. The building contains 105 units and was designed to break up the mass of the structure through wall depth, tower elements, pedestrian scaled features, two story roof elements and outdoor balconies. The style of the building is also influenced by Spanish architecture and includes cement plaster walls, decorative trim and cornice elements, metal railings and stone veneer along the first and second stories. The roof form is a combination of hip, gable and flat with Mission "S" tiles used as the primary material. The building contains an interior landscaped courtyard and balconies. The building was designed to step down slightly along Warm Springs Boulevard near the entrance drive to complement the attached units across the drive and to provide a better sense of entry for the overall project.

**Site Planning:** Numerous factors affected the layout of the site including an Alameda County Flood Control District flood channel along the southern and western boundaries, existing trees, numerous easements, stormwater treatment requirements, interface with the adjacent project site and the required minimum density. Pedestrian and vehicular circulation and open space were the factors most influential in the design of the site plan. Access to the Flood Control Channel was maintained for operational and maintenance purposes of the Flood Control District. Primary access points from Warm Springs Boulevard and Kato Road provide access to the internal circulation system of private streets. The site was designed so garage doors do not front on the primary streets but rather on internal short accessways or alleys that provide vehicular access to the units. Speed bumps/tables have also been incorporated into the on-site circulation for traffic calming purposes. A comprehensive pedestrian circulation system has been provided throughout the site. This system links all parts of the project to the private park and community building. A series of landscaped pedestrian

walkways have been provided internal to the site so that the units front on the landscaped walkways with garage and vehicle access at the rear of the units.

A private park and recreation building was designed and sited to act as a focal point for the entrance points off Warm Springs Boulevard and Kato Road. This open space area is also located generally in the center of the site to provide convenient access from all units. A system of stormwater bio-swales has also been provided at certain locations along the perimeter of the site to treat stormwater runoff prior to entering the flood control channel.

This project site is adjacent to another industrial site also rezoned for residential as part of the Housing Element Implementation Program. An application is pending for this adjacent site and has been planned accordingly to be compatible with this project. These two sites share two property lines, an east-west property line and a north-south property line. A privacy fence will be built along the east-west property line to ensure privacy for open spaces on both sites. A sidewalk will be built along the north-south property line with the intention of integrating the two projects as one neighborhood. The sidewalk is proposed along the common property line which will require an easement and common maintenance agreement between the two projects (Condition #A-10). An Emergency Vehicle Access Easement (EVAE) will also be provided between the two projects. Although the current design of this EVAE is inconsistent between the two plans, the access easement will be aligned and be subject to final review and approval by Fire Department (Condition A-28).

**Landscaping:** The project involves a fairly elaborate landscape plan that addresses all aspects of the project site. The plan includes a series of terraced landscape planters adjacent to the units, at the entry features of the paseos and along the pedestrian circulation system. A variety of trees, shrubs, groundcover, perennials and vines are proposed within these terraced planters and throughout the entire site. New street trees will also be planted along Kato Road and Warm Springs Boulevard and installed per City standards, species subject to review and approval of the City's Park Supervisor (Condition L-10). Although the entire species list is too numerous to list all, some examples include the following:

<b>Trees</b>	<b>Shrubs</b>	<b>Groundcovers, Perennials &amp; Vines</b>
<i>Japanese Maple</i>	<i>Japanese Boxwood</i>	<i>Bearberry Cottoneaster</i>
<i>European Hornbeam</i>	<i>Camelia</i>	<i>Star Jasmine</i>
<i>Crape Myrtle</i>	<i>Sageleaf Rockrose</i>	<i>Fleabane</i>
<i>Columnar Sargent Cherry</i>	<i>Daylily</i>	<i>Dwarf Periwinkle</i>
<i>Chanticleer Flowering Pear</i>	<i>Lavender</i>	<i>Japanese Wisteria</i>
<i>Fern Pine</i>	<i>Rose Fountain Grass</i>	<i>Periwinkle</i>

The areas around all structures will include foundation plantings to screen the base of the structures. Ornamental trees will be planted between the detached units; however, since the separation is ten feet, the species for these areas will be carefully selected to ensure long term viability.

Other major highlights of the landscape plans include the following:

- Landscaped common open space with tree clusters, lawn area and playground.
- Landscaped pedestrian paseos with ornamental trees and special paving at intersections.
- Landscaped courtyard within condominium building with benches and special paving.
- Site entry features with enhanced landscaping and gateway elements at the Warm Springs and Kato driveways.
- Landscape bio-swales for treating stormwater runoff.
- A variety of urban design features to further enhance the site as discussed below.

### ***Urban Design Features***

#### ***Fence and Wall Features***

The south and west property lines of the project site will be fenced along the entire lengths. Fencing along the west property line adjacent to the railroad tracks will consist of a ten (10) foot high sound wall to mitigate noise impacts from the railroad and future BART trains. The design of this wall is subject to further review and approval by staff during the Development Organization review. Although a detail of this wall is provided on Sheet #L6.4, staff does not support this

design. This wall will also include two gates for maintenance access to the flood control channel. The final design of the wall and gates will be subject to review and approval of the City of Fremont and Alameda County Flood Control District (Condition #A-23).

A fence is also proposed along the southern property line as a preventive measure to restrict access to the flood control channel. The design of this fence, decorative tubular steel as proposed on Sheet #L6.4, is acceptable to staff, however is subject to further review and approval by Alameda County Flood Control District (Condition #A-24).

#### Site Entry Features

Entry features are proposed at the site entrances along Kato Road and Warm Springs Boulevard. These features will include special paving, enhanced landscape features, gateway elements/community pilasters with identity signage and specimen trees as part of the mitigation for tree removal. The specimen tree size and species will be subject to review and approval of the City Landscape Architect. An example might include a 60-inch box White Oak.

#### Paseo Entry Features

Entry features are also provided at the paseo entrances to the townhome units. For the detached units, these features will include an entry trellis constructed on top of stone faced pilasters with identity logos. Also included are tiered landscaped planters with flowering shrubs. For the attached units, these features include enhanced paving, ornamental trees and additional landscaping.

#### Community Building Tower Element

The community building within the common open space area has been specifically sited to act as a focal point from each project driveway. The building contains a tower element that will be visible from both Kato Road and Warm Springs Boulevard. Upon entering the site this tower element will act a terminus provide visual interest as one travels down these streets.

**City Landscape Architect Review of Proposed Tree Removal and Preservation:** The proposed project is located on a site that has 226 semi-mature trees, representing 18 species, as shown on the Existing Tree Location Plan, Sheet L8, All of these trees were planted as part of landscape development for the current site use, an office/warehouse complex with associated parking areas. The majority of trees are concentrated on the periphery, and none of the trees is indigenous to the site. The most frequently occurring species found here is the Coast Redwood (81 trees), followed by the Silver Dollar Gum (50 trees) and the London Plane Tree (29 trees).

Of the total of 226 trees, 223 trees are recommended for removal, and three trees will be retained. The three trees recommended for preservation are: #120, 121, and 122, all Coast Redwoods located on the western side of the property adjacent to the Alameda County Flood Control District. The 223 trees recommended for removal include four trees that are dead and 151 trees that have been determined to have poor or moderate suitability for preservation. The remaining 78 trees have good suitability for preservation but have been proposed for removal due to conflicts with the proposed development. A number of these trees are located on the perimeter of the project, and as such, Staff believes there is possibility for additional preservation of existing trees through further review. In particular, the Canary Island Pines and Redwoods along Warm Springs Blvd. and the Canary Island Palms and White Alders along Kato Rd. shall be further reviewed and may be considered for preservation.

In recognition of the large number of existing trees that will be removed, mitigation shall consist of the following and will be included as a condition of approval (Condition A-7):

- a) Street trees of 24" box size shall be provided along Kato Rd. and along Warm Springs Blvd. at approximately 35' on center. Street trees shall be installed per the City's Standard Detail for Street Tree Planting; species and location are subject to the approval of the City's Parks Supervisor.
- b) Specimen trees of 60" box size shall be included as part of the landscape features at gateway/entry nodes at Kato Rd. and at Warm Springs Blvd. There shall be no less than four such areas throughout the project site featuring specimen size trees; species subject to staff approval during Tract Improvement Plan review and Development Organization review.

- c) All trees in and surrounding the Community Park shall be installed as 36" box size or greater. The Community Park Landscape Plan shall also provide space for a minimum of two 60" box size specimen trees, species and location subject to staff approval during Tract Improvement Plan review and Development Organization review.
- d) All other new trees shall be minimum 24" box size.

**View Impacts:** The project site is currently developed with large scale warehouse and industrial buildings and is surrounded on two sides by industrial uses. Impacts to views are not anticipated.

## ENGINEERING ANALYSIS:

**Circulation/Access:** Access to the project site is from both Kato Road and Warm Springs Boulevard. The project proposes one driveway on each street. The project shall construct new public sidewalk along the frontage of both Kato Road and Warm Springs Boulevard. On site pedestrian circulation is provided by sidewalks along the main private streets and by sidewalks in the paseos between the buildings.

On site vehicle circulation is provided by private vehicle access ways (PVAWs), a type of private street used in condominium and townhouse developments. In 1984, City Council adopted a development policy for private vehicle access ways. The development policy sets forth principles and standards for developments that use private vehicle access ways. As part of the Planned District rezoning, the applicant is requesting some deviations from the development policy. The policies and deviations are discussed below.

- PVAW Policy 6: All private vehicle access ways are to be a minimum of twenty-four feet wide (clear width) in those portions where no parking is allowed directly off the access way. An additional four-foot width is required on the side of the access way wherein right angle enclosed parking is provided. An additional two-foot width is required on the side of the access way wherein right angle carport or uncovered parking is provided.

Analysis: For the detached townhouses, the applicant is proposing PVAW clear widths of twenty-two feet, instead of twenty-four feet. However, the garage door-to-garage door dimension is proposed at thirty-two feet, which complies with the PVAW policy (24 feet + 4 feet each side). Emergency vehicles require twenty feet clear. Staff supports the applicant's request for twenty-two foot clear width PVAWs for the detached townhouses.

The applicant is also proposing streets with on-street parallel and right-angle parking. In the case of PVAWs with on-street parallel parking, the applicant is proposing twenty foot clear pavement width with an additional eight feet of pavement width for parallel parking, either on one side or on both sides of the street. In areas with right-angle parking, the applicant is proposing 24 feet clear for vehicles to back up. The clear widths, while not meeting the policy requirement, do conform to the zoning ordinance requirements for parking lots. Staff supports the applicant's PVAW design adjacent with on-street parallel and right-angle parking.

- PVAW Policy 7: Vertical concrete curbs or concrete valley gutters shall be used where stormwater runoff is involved.

Analysis: The requirement for vertical curbs concrete valley gutters was implemented prior to the new stormwater pollution prevention requirements. In order to implement the stormwater pollution prevention plan, as proposed by the project design team, depressed (flush) curbs and vertical curbs with openings, into bioswales, are needed. Staff supports the proposed curb and gutter design.

- PVAW Policy 8: Minimum edge of pavement radius is to be twenty feet, except for "turn around" facilities.

Analysis: The site plan includes a few radial curb dimensions less than twenty feet. The most significant area is at the street driveway entry to units 89 through 101, where a fifteen-foot radius is shown. The proposed radius is adequate for emergency and service vehicle access to these thirteen homes. Staff supports the proposed on-site circulation design, including reduced curb radii as shown on the site plan.

- PVAW Policy 9: An adequate hammerhead or bulb turn around is to be provided at the end of a dead end PVAW unless the design incorporates a "T" or four-way intersection within one hundred twenty feet of the end of the access

way. Turn around facilities are to be adequate to allow fire apparatus and other emergency vehicles to turn around without backing into parking spaces.

Analysis: The fire code requires vehicle turn around areas for dead end streets one hundred fifty feet and greater in length. The project complies with the fire code requirement. All of the dead-end streets will primarily serve only the homeowners, because there is no guest or public parking stalls at the ends of these streets. Staff supports the applicant's proposal for dead end PVAWs that are less than one hundred fifty feet in length.

- PVAW Policy 15: A walkway connection is to be provided from the private vehicle access ways to the main pedestrian pathway system. A 3.5 foot sidewalk shall be provided on both sides of the private vehicle access way.

Analysis: The main private streets within the development are proposed with sidewalks on both sides of the street, however the secondary roads, which provide garage access to the detached and attached townhouses, do not have sidewalks adjacent to the streets. One reason sidewalks are not proposed adjacent to the vehicle access way is because the buildings are design to have pedestrian building access on the opposite side from the side with garage access. Because of the building design, the applicant is proposing paseos between the buildings. Staff supports the applicants proposal for sidewalks that, in some cases, are not adjacent to the vehicle access way.

**Street Improvements:** The site is bounded on the north by Kato Road and on the east by Warm Springs Boulevard. Both public streets are classified as four-lane arterials within the General Plan. The current street improvements have been previously installed in conjunction with the development of the subject parcels; with a local improvement district; and through City public works projects. This project will construct new street improvements and replace/repair existing improvements as necessary(Conditions #E-3 – E-6).

Warm Springs Boulevard: The planned right-of-way for Warm Springs Boulevard is asymmetrical regarding the street centerline. The right-of-way from centerline to property line on the project site is 52 feet, with a centerline to curb pavement width of 42 feet. The street was improved with a five-foot sidewalk along the curb, which does not conform to residential standards. The project shall: remove the existing sidewalk; install new sidewalk; construct a private street driveway; replace existing damaged and/or displaced curb, gutter, and pavement to the centerline of Warm Springs Boulevard; underground the existing overhead utilities; and if necessary, modify the striping and median on Warm Springs Boulevard. The applicant shall submit with the tentative map application a concept-striping plan for Warm Springs Boulevard from the intersection at Kato Road to the City boundary with Milpitas (Conditions #E-3).

Kato Road: The planned and existing right-of-way for Kato Road along the project frontage is 88 feet, with pavement width of 68 feet. The street was improved with an industrial frontage standard, which at the time did not require sidewalks. This project shall: install sidewalks; construct a private street driveway; replace existing damaged and/or displaced curb, gutter, and pavement to the centerline of Kato Road; and removing the existing pavement striping and replacing with new striping to accommodate bike lanes, 4 travel lanes, and a 2-way left turn lane. The applicant shall submit with the tentative map application a concept-striping plan for Kato Road from the intersection at Warm Springs Boulevard to the at-grade railroad crossing to the west (Conditions #E-4).

Easements: There are existing easements in favor of the City along the Kato Road and Warm Springs Boulevard frontage of the project. The easements were dedicated to the public in 1977 with the recording of Parcel Map 2161. Along Warm Springs Boulevard there is a 25-foot wide public planting easement, which was required per the precise plan map for Warm Springs Boulevard. Along Kato Road there is a 15-foot wide sidewalk foot trail easement, which was required by the transportation element of the general plan in 1977.

The applicant has proposed to retain these easements (sheet SP-7), however the site plan shows proposed buildings that encroach into these easements. The buildings in question are unit 142 on Kato Road and units 220 through 237 on Warm Springs Boulevard. Prior to Planning Commission consideration of a tentative map for this project, the developer and design team shall work with staff to eliminate any building encroachment into the planting easement and sidewalk easement; or prior to Planning Commission consideration of a tentative map for this project, the developer shall apply for and receive approval of an easement vacation for portions of the existing easements (Condition #E-2).

**Grading/Topography:** The project site consists of three parcels with a combined land area of over 18 acres. The parcels have been improved with industrial buildings and associated parking lots. The existing buildings, parking lots, and related utilities will be demolished to accommodate the proposed residential project. Several trees exist on the site with some intended for preservation with the redevelopment of the site. A future preliminary grading plan application is required and shall be subject to Planning Commission review and approval.

**Drainage:** The project drains to Line A, an existing concrete lined channel along the southern and western boundary of the site, and Line A-1, an existing 60-inch storm drain pipe that connects to the Line A channel just before the channel crosses under the rail road tracks. The existing channel (Line A) is located on a separate parcel owned by the Alameda County Flood Control and Water Conservation District (ACFC&WCD).

In addition to the channel, ACFC&WCD owns an access easement over the project site, from the existing driveway on Warm Springs Boulevard and along the channel. The access easement is used by ACFC&WCD to inspect, clean, and maintain the existing drainage channel. Modifications to the existing access easement are necessary in order to accommodate the proposed development. Modifications to the easement are subject to the approval of ACFC&WCD, prior to approval of the final map for the subdivision.

The proposed on site storm drain system is a mix of bioswales and underground storm drains. The design team has attempted to maximize the amount of runoff that flows through bioswales, in order to provide the stormwater pollution treatment that is required by the City's clean water program (see Clean Water Program discussion below). The on-site storm drain system shall be subject to review and approval by both the City Engineer and the ACFC&WCD prior to final map approval.

Alameda County Flood Control & Water Conservation District: Due to the existing flood control facilities surrounding the project site and the applicant's proposal to modify the existing ACFC&WCD access easement, staff and the applicant have worked closely with ACFC&WCD on the review of this project. According to an October 14, 2005, letter from ACFC&WCD (enclosed), the modifications to the existing easement are satisfactory, however the final design details remain to be worked out. Prior to the final map and subdivision improvement plans being scheduled for City Council, ACFC&WCD shall have conditionally approved the vacation of a portion of or the entire existing access easement.

Alameda County Water District: Medium- to high-density condominium and townhouse developments are being designed with less "free" land area to locate utilities. Because of this, staff and the developer have worked closely with the Alameda County Water District (ACWD) to make sure that the project plan is feasible and the site plan and landscape plan will be compatible with the utility design. The developer has prepared a concept utility plan for review by ACWD staff and ACWD has accepted their conceptual utility plan.

**Urban Runoff Clean Water Program:** The current Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit was issued in February 2003. The NPDES permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project intends to meet the quantitative stormwater treatment requirements by constructing bioswales throughout the project site, installing an underground stormwater treatment unit, and constructing infiltration planters in the podium condominium building. All treatment occurs by directing stormwater runoff into and through the treatment measure. The stormwater treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to final map approval.

**Geologic Hazards:** The project site is within an area of potential liquefaction on the official Seismic Hazard Zones, Milpitas Quadrangle map, released by the State Geologist on October 19, 2004. In accordance with the Seismic Hazard Mapping Act, the project geotechnical engineer prepared a seismic hazard report. The report was reviewed and approved by the City and filed with the State Geologist. The subdivision improvements and building construction will conform to the recommendations of the seismic hazard report.

**FEMA Flood Zone:** The westernmost one hundred feet of the project site is located within the floodplain or a special flood hazard zone as defined by the Federal Emergency Management Agency (FEMA). In order to develop within the floodplain, all new structures shall be built with the lowest floor above the base flood elevation. In this case the base flood elevation is 17 feet. All the homes are proposed to be on fill, with the lowest floor elevated above 17 feet. By raising the grade on site, the applicant is removing land area from the floodplain which will be reflected in the future preliminary grading plan application which is subject to review and approval of the Planning Commission.

**ENVIRONMENTAL ANALYSIS:** An Initial Study and Mitigated Negative Declaration has been previously prepared and adopted for this anticipated development as part of the Housing Element Implementation Program. The environmental analysis identified concerns regarding potential impacts to noise and vibration, tree preservation and air quality. The Mitigated Negative Declaration and associated Mitigation Monitoring Plan includes mitigation measures, which will reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project (Condition #A-7). These measures include acoustical and structural engineering methods to reduce effects of noise and vibration from the nearby railroad; dust suppression and asbestos survey methods to reduce impacts to air quality; and, specific landscape and tree requirements.

A finding is proposed that the previously adopted Mitigated Negative Declaration for this project, PLN2004-00272, adequately addresses potential impacts and would not have a significant effect on the environment based upon the implementation of the identified mitigation measures.

#### **Response from Agencies and Organizations:**

This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. The ACCMA has had no comment on the proposed project.

The project was also submitted to the Alameda County Water District for their review and approval of the site plan and associated preliminary utility drawings. Comments from the Water District have been incorporated into the plans and the ACWD has indicated their support for the project.

The project was also submitted to the Alameda County Flood Control & Water Conservation District for their review and approval of the site plan as it relates to the adjacent Flood Control Channel. Comments from the District have been incorporated into the plans and the ACFC&WCD has indicated their support for the project contingent upon their recommendations. Following these recommendations has been included as a Condition of Approval for the project (Conditions #A-22).

No other agencies, organizations or members of the general public have commented on the project.

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees will include fees for fire protection, capital facilities, traffic impact, park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. The applicant will receive a credit for the existing buildings on site to be demolished.

**ENCLOSURES:**

- Exhibit "A" - Rezoning Exhibit
- Exhibit "B" - Preliminary/Precise Site Plan, Architectural Elevations, Floor Plans and Landscape Plan
- Exhibit "C" - Finding and Conditions of Approval
- Exhibit "D" - Mitigation and Monitoring Report Program for Warm Springs Village (PLN2005-00292)
- Notice of Determination, Environmental Declaration, Certificate of Fee Exemption and Mitigated Negative Declaration for Housing Element Implementation Program #21 (informational)
- Planned District Justification (informational)
- Alameda County Flood Control Letter dated October 14, 2005 (informational)
- Rendered Elevations (informational)

Exhibit "1" Professional Team Endorsement  
Exhibit "2" Property Owner Consent Letter  
Exhibit "3" Property Description

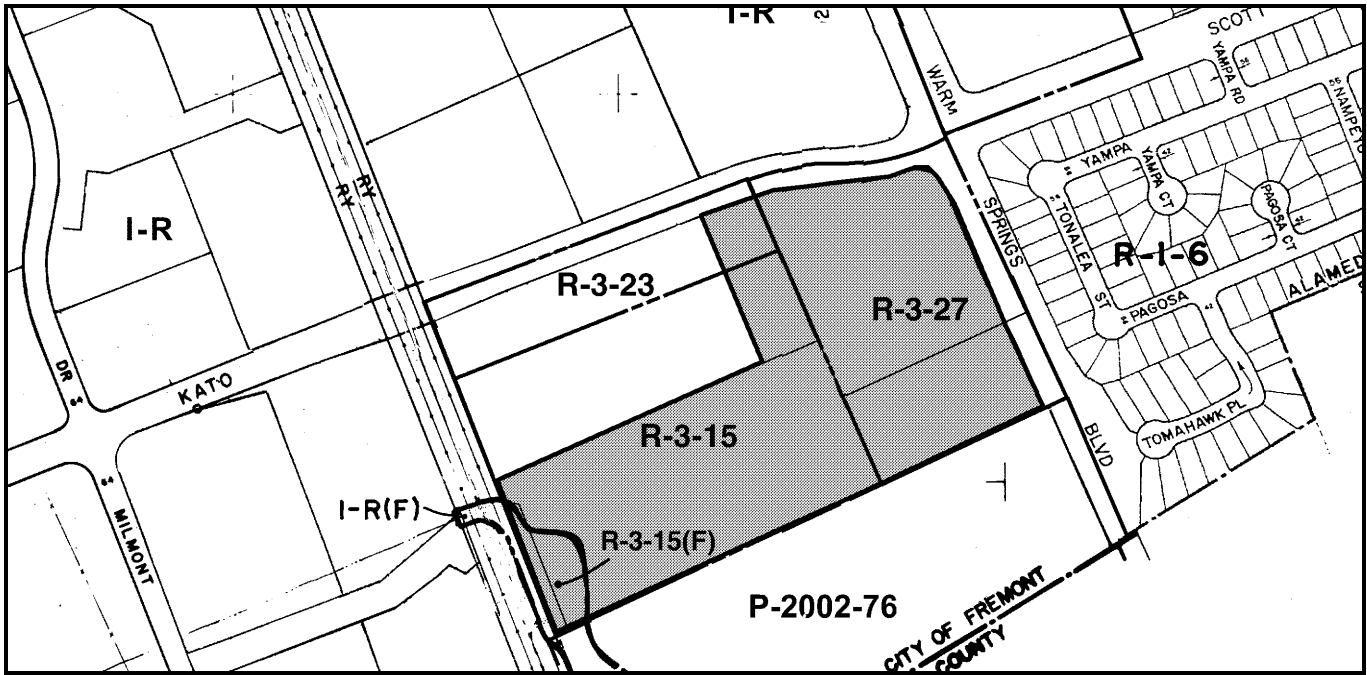
**EXHIBITS:**

Exhibit "A" Rezoning Exhibit  
Exhibit "B" Preliminary/Precise Site Plan, Architectural Elevations, Floor Plans and Landscape Plan  
Exhibit "C" Finding and Conditions of Approval  
Exhibit "D" Mitigation and Monitoring Report Program for Warm Springs Village (PLN2005-00292)  
Exhibit "E" Material and Color Board

**Recommended Actions:**

1. Hold public hearing.
2. Recommend that the City Council find the initial study and Mitigated Negative Declaration previously circulated and adopted for the General Plan re-designation and rezoning, PLN2004-00272, has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
3. Recommend that the City Council find that the Mitigated Negative Declaration previously circulated and adopted for the General Plan re-designation and rezoning, PLN2004-00272, adequately addresses potential impacts arising from the proposed project and the identified mitigation measures will reduce potential impacts to less than significant levels and further find that this action reflects the independent judgment of the City of Fremont.
4. Recommend to the City Council approval of the Mitigation Monitoring Plan for Warm Springs Village (PLN2005-00292)
5. Recommend to the City Council find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
6. Recommend to the City Council find PLN2005-00292, as per Exhibit "B" (Preliminary and Precise site plan, floor plans, elevations and landscape plans), fulfills the applicable requirements set forth in the Fremont Municipal Code; and further recommend that the City Council find that the requested deviations from the City's private vehicle access ways (PVAW's), guest parking requirements, and other standards, are justified for the reasons set forth in the staff report and in Finding No. 4.
7. Recommend to the City Council accept as complete:
  - Exhibit 1 - Professional Team Endorsement
  - Exhibit 2 - Property Owner Consent Letter
  - Exhibit 3 - Property Description
8. Recommend to the City Council the rezoning as shown on Exhibit "A" (Zoning Exhibit) and Exhibit "B" Sheet(s) SP1-7, L1-8, D1-23, A1-20, P1-14 and R1 (Preliminary and Precise site plan, floor plans, elevations and landscape plans) and Exhibit "E" (material color and sample board) for PLN2005-00292 be approved, based upon the findings and subject to the conditions of approval set forth in Exhibit "C".

**Existing Zoning**  
Shaded Area represents the Project Site



**Existing General Plan**



# EXHIBIT "A"

Attached to and made a part of

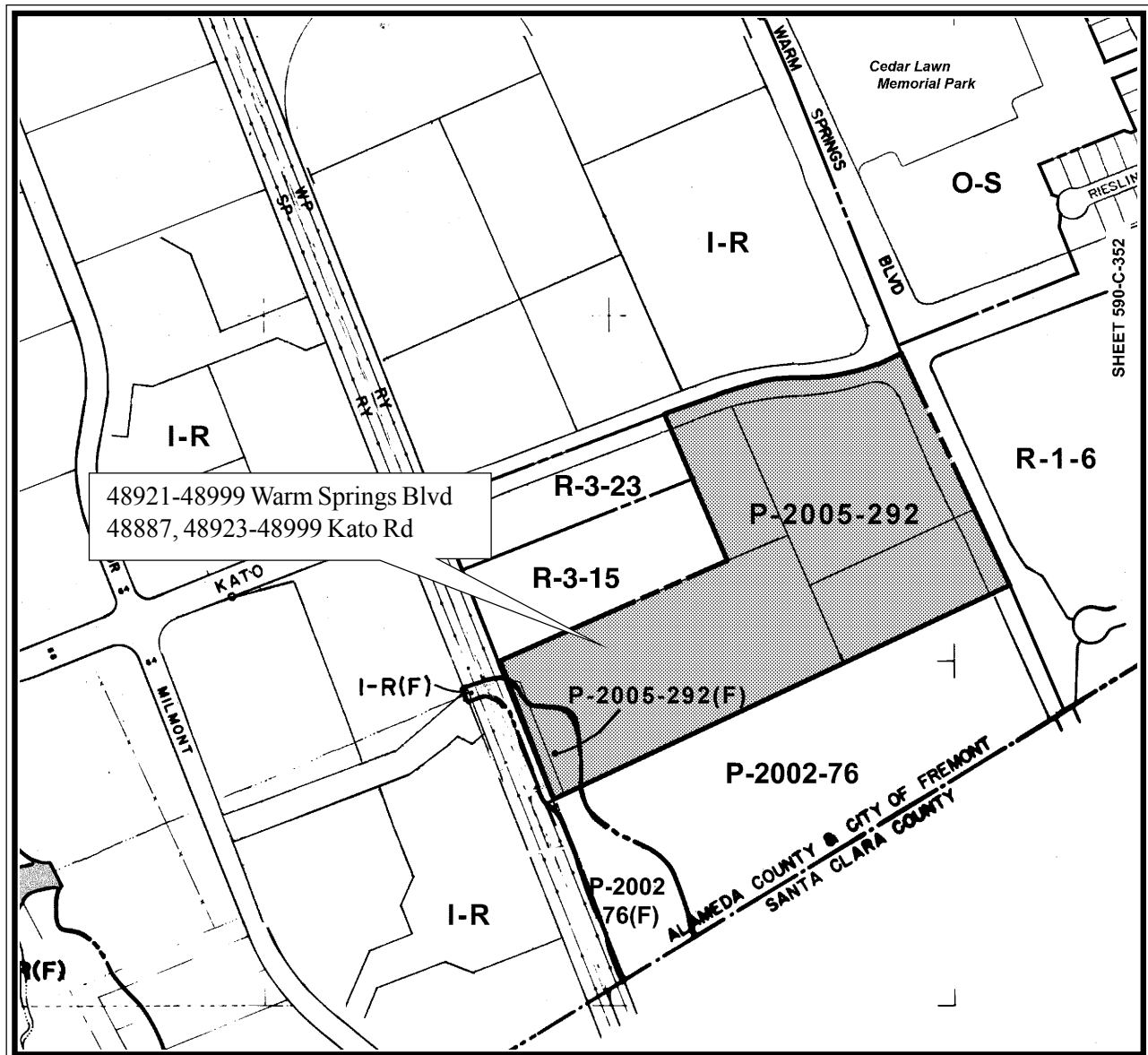
**Ordinance No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, 20\_\_\_\_.

## ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE INDUSTRIAL PLANNING AREA



From: R-3-15 & R-3-15(F), R-3-23, R-3-27

To: P-2005-292 & P-2005-292(F)

Project Name: Warm Springs Village

Project Number: PLN2005-00292 (pd)

[pc on 11-17-2005] 84-352

SR

**EXHIBIT "C"**  
**Warm Springs Village**  
**PLN2005-00292**

**FINDINGS**

The following findings are made by the Planning Commission based on information in the staff report and testimony at the public hearing on November 17, 2005, incorporated hereby:

1. The proposed "P" district, or a given unit thereof, can be substantially completed within four years of a preliminary and precise "P" district approval because the site is a size where construction of the project could be completed in a multi-phase development within the time frame specified.
2. That each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district.
3. That the existing streets and thoroughfares and required on-site improvements are suitable and adequate to carry anticipated traffic, and anticipated future potential for site development will not generate traffic in such amounts as to overload the street network outside the "P" district because the site is suitable for the proposed use and minor street improvements will be installed to facilitate traffic movement. The on-site circulation and parking improvements can reasonably and adequately serve the residential development.
4. That any exception from standard ordinance requirements may be warranted by special design and planned district amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council. Upon proposal of a development project through the Planned District process, the applicant may propose modifications to the Fremont Municipal Code for Planning Commission consideration that will allow development that is consistent with the General Plan land use designation and the existing surrounding residences. In this case, such modifications include the substitution of guest parking with resident parking, increased height limits, decreased landscaped setbacks, use of a tandem garages in some locations and modified street standards, and are warranted by the use of high quality building materials such as wrought iron, stone veneer, concrete tile roof; the incorporation of common private open space two times the size of the required open space with amenities such as a play structure and picnic tables; the addition of a community building; and, installation of identity signage, gateway elements and enhanced entry features at the primary entrances.
5. That the area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development. This site is an infill development with pending residential development proposed on adjacent land with that development being planned in coordination with this project.
6. That the "P" district is in conformance with the General Plan of the City of Fremont. The project conforms to the General Plan land use designations of Medium Density Residential, 11 to 15, 18 to 23 and 23 to 27 dwelling units per acre and is consistent with and implements the goals and policies of the Land Use and Housing Chapters of the General Plan.
7. That existing or proposed utility services are adequate for the population densities proposed. None of the responsible utility companies have stated they will be unable to provide the required services to the site.
8. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.

**General Conditions**

- A-1 The approval of PLN2005-00292 shall conform to Exhibit "B" (Preliminary and Precise Site Plan, Floor Plans, Elevations and Landscape Plan), Exhibit "E" (Color and Material Sample Board) and all the conditions of approval set forth herein. This Planned District, P-2005-292, entitles the construction of 342 residential units with associated site, open space, landscape and circulation improvements. The common open space/private park shall remain as permanent open space for the entire life of this project.

- A-2 Plans shall be submitted to the **Development Organization** for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-3 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Planning Director or his/her designee if such modifications are in keeping with the architectural statement of the original approval. However, the Planning Director shall retain the authority to determine the level of review required, including a Planning Commission and City Council review.
- A-4 The project shall be subject to all City-wide development impact fees. These fees will include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. A fee credit shall be given for the industrial buildings to be demolished.
- A-5 Construction hours will be limited to the following and no construction will be allowed on Sundays or holidays: 7 a.m. to 7 p.m. Monday through Friday; 9 a.m. to 6 p.m. Saturday. A sign shall be posted on site during construction specifying the hours of operation.
- A-6 Lighting associated with the project shall be subject to staff review and approval during the Development Organization review process, and shall be of a residential pedestrian scale and decorative in nature. Light standards shall be located throughout the project site subject to review and approval of the City of Fremont Police Department and Planning Division.
- A-7 Per the previously adopted Mitigated Negative Declaration, PLN2004-00272, the applicant shall include the following mitigation measures into the project:
1. To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as feasible to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be replanted to minimize the generation of dust. A person shall be designated a person to oversee the implementation of the dust control program.
  2. In terms of demolition activities, applicants and/or owners shall be required to receive appropriate approvals from all regulatory agencies, including a "J" number from the Bay Area Air Quality Management District (BAAQMD).
  3. Prior to any demolition, renovation or removal of structures on any of the project sites, an asbestos survey of existing structures shall be performed consistent with National Emissions Standards for Hazardous Air Pollution guidelines. If warranted, a remediation plan to remove asbestos shall be prepared and implemented. Said plan shall be consistent with applicable Fremont Fire Department standards, Bay Area Air Quality Management District requirements and Cal-OSHA standards. Necessary permits shall be obtained from all applicable regulatory agencies. In addition, a lead based paint survey shall be conducted. If lead-based paint is encountered, the requirements as outlined in Cal OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1 (or succeeding regulation) shall be followed.
  4. Should any cultural resources be unearthed during site development work, the provisions of **CEQA Guidelines - Section 15064.5(e) and (h)**, will be followed to reduce impacts to a non-significant level.
  5. Standard water pollution and erosion control measures following Best Management Practices (BMPs) will be implemented to prevent runoff and sedimentation from entering the storm drain system. The project shall achieve compliance with the Alameda County Urban Storm Water Runoff Program, in conformity with the National Pollution Discharge Elimination System (NPDES) program established by the Clean Water Act.
  6. The following measures shall be implemented to mitigate impacts from noise and vibration:

- All residential units located along Kato Road and Warm Springs Boulevard shall provide exterior to interior noise reductions of at least 25-30 dBA. To achieve this noise reduction these buildings shall have a Sound Transmission Class (STC) rating of at least 35, subject to review and approval of the City's Noise/Vibration consultant during the Development Organization review process.
- A ten (10) foot high sound wall shall be constructed along the western property line to reduce wheel/rail noise contribution from existing and future freight train movements, and future BART train noise.
- The nine residential units located immediately adjacent to the railroad shall be constructed to reduce exterior to interior noise levels by 55 dBA. To achieve this noise reduction these buildings shall have a Sound Transmission Class (STC) rating of at least 50, subject to review and approval of the City's Noise/Vibration consultant during the Development Organization review process.
- The residential units located near the railroad and potentially impacts by freight and/or future BART vibration impacts shall be constructed to reduce building vibration for existing and future train movements. Appropriate structural modifications to the building and/or building base vibration isolation techniques shall be used to reduce vibration levels to the 72 dBA Federal Transit Administration (FTA) limit, subject to review and approval of the City's Noise/Vibration consultant during the Development Organization review process.
- The applicant/developer shall provide full disclosure to buyers regarding the potential noise and vibration impacts associated with the site. Potential buyers should be advised that although all reasonable and practicable measures have been taken to reduce noise and vibration impacts, they may still be affected by noise and vibration from existing and future train and BART operations.

7. As mitigation for the removal of up to 223 trees, the following items shall be required:

- Street trees of 24" box size shall be provided along Kato Rd. and along Warm Springs Blvd. at approximately 35' on center. Street trees shall be installed per the City's Standard Detail for Street Tree Planting; species and location are subject to the approval of the City's Parks Supervisor.
- Specimen trees of 60" box size shall be included as part of the landscape features at gateway/entry nodes at Kato Rd. and at Warm Springs Blvd. There shall be no less than four such areas throughout the project site featuring specimen size trees including each entry feature, the common open space and one other area as determined by the applicant; species subject to staff approval during Tract Improvement Plan review and Development Organization review.
- All trees in and surrounding the Community Park shall be installed as 36" box size or greater. The Community Park Landscape Plan shall also provide space for a minimum of two 60" box size specimen trees, species subject to staff approval during Tract Improvement Plan review and Development Organization review.
- All other new trees shall be minimum 24" box size.

A-8 All mechanical equipment, including any roof-mounted equipment, (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.

A-9 Final building design, colors and materials shall be consistent with Exhibit "B" (Preliminary and Precise Site Plan, Floor Plans, Elevations, Landscape Plan, Preliminary Grading and Drainage Plan) and Exhibit "D" (Color and Material Sample Board), subject to staff review and approval during Development Organization review.

A-10 Regarding the proposed private sidewalk (700 feet x 4 feet) which runs along the northern boundary of the westerly half of the project and straddles the property line shared with Santa Clara Development Company:

- a. Before the first final map is recorded for the project, the developer shall record a mutual easement agreement for the sidewalk (with the adjacent property owner).
- b. Before the first building permit is obtained, the developer shall record a shared maintenance agreement with

the adjacent property owner for the sidewalk, to include among other things provisions for insurance, indemnification, right of entry, and allocation of installation, repair and maintenance costs. This may be a separate agreement, or part of a larger agreement with the adjacent property owner.

- c. Before a certificate of occupancy is issued for any home which abuts the sidewalk from either the north or the south, from either the Warm Springs Village project or the SCDC Kato Road project, the developer shall install the sidewalk. The sidewalk installation shall meet City sidewalk standards.

This proposed sidewalk is not subject to Government Code section 66462.5.

- A-11 The final design, layout, and construction of the proposed development shall conform to the Security Ordinance, No. 2484, as amended, including a lighted street address and appropriate security measures, subject to the review and approval of staff during the Development Organization review process.
- A-12 No exterior additions or modifications to the residences, including the addition of pre-manufactured sunrooms, shall be permitted. This condition shall be incorporated into the CC&Rs for this project. Additionally, this condition shall be incorporated as a deed restriction for each lot within the development, subject to the review and approval of staff prior to the acceptance of the first Final Map for this project.
- A-13 The applicant shall notify Planning staff of the construction schedule. At the time of installation of framing and stucco/siding, the applicant or a representative of the applicant, shall request an on-site inspection by the project planner, to ensure compliance with the architectural detailing of all buildings.
- A-14 Final design details for the gateway elements located at the Warm Springs Boulevard and Kato Road entrance, and the Warm Springs/Kato intersection shall be subject to review and approval by staff during the Development Organization review process.
- A-15 The proposed "grasspave" material to be located along the south side of the condominium building and in the southwest portion of the site along the Alameda County Flood Control Channel shall be subject to review and approval of the Alameda County Flood Control District and Fremont Fire Department.
- A-16 A burrowing owl survey shall be conducted for the site and adjacent areas at least 30 days prior to any demolition or construction activities.
- A-17 A Homeowners Association shall be created for this residential project. The Association in conjunction with KB Home shall prepare a set of comprehensive Covenants, Codes and Restrictions (C,C&R's), subject to review and approval by the City of Fremont prior to Final Map approval.
- A-18 The final details regarding trash collection for the podium building shall be subject to review and approval by the City of Fremont and Allied Waste Inc. (formerly BFI).
- A-19. The Covenants, Codes and Restrictions (C,C&R's) for the project shall stipulate that the garages and interior parking spaces for the condominium building be used for the parking of vehicles only and not be used for storage.
- A-20. The applicant shall include 100 cubic feet of additional storage space in the condominium units subject to review and approval of staff during the Development Organization review.
- A-21. Pursuant to Article 21.7 [Inclusionary Housing] of the Fremont Municipal Code, the Property Owner(s) shall enter into a BMR Master Developer Agreement with the City to provide at least 15% of total number of residential units made available at affordable housing costs within the for-sale development. A total of 51 units in Warm Springs Village shall be available for participation in a below market rate (BMR) affordable housing program, subject to the review and approval of the Office of Housing and Redevelopment. The BMR Master Developer Agreement shall run with the land, made part of the project's conditions of approval and shall be recorded on the property titles of each parcel designated for the BMR sales program. The BMR Master Developer Agreement shall include the following provisions:
  - BMR units shall be affordable to families earning no greater than 110% or below of the county median income as defined by the United States Department of Housing and Urban Development in effect at the time of sale;

- Units shall only be available to eligible first time homebuyers as defined under the California Housing Finance Agency To the extent permitted by law, preference shall be given to those who currently live, work, or previously lived in the City of Fremont;
- To insure long-term affordability, and to assist the greatest number of families over the longest feasible time, BMR units shall be subject to resale restrictions under individual agreements developed by the City of Fremont, which shall be binding for a minimum of 30 years, renewable upon resale;
- The BMR sales price shall be computed as follows:

For a two bedroom unit, the sales price shall be computed based upon the maximum program restricted income for a family of three times a multiplier of 3.5, and for a three bedroom unit, the sales price shall be computed based upon the maximum program restricted income for a family of four times a multiplier of 3.5. For January 2005, the sales prices are:

**2005 BMR sales price:**

2 bedrooms (family of 3 at 110% of area median income): \$284,900

3 bedrooms: (family of 4 at 110% of area median income): \$316,400

4 bedrooms: (family of 5 at 110% of area median income): \$341,950

- The City of Fremont Office of Housing and Redevelopment will conduct the Buyer Selection process and will provide eligible homebuyers to the Developer. The selection process will be described in the BMR Master Developer Agreement.

- A-22. The applicant shall continue to work with Alameda County Flood Control District to address any concerns and follow the recommendations in the ACFC letter to the applicant dated October 14, 2005.
- A-23. The sound wall and associated gates along the western property line as required by the Mitigated Negative Declaration is subject to further design review by the City of Fremont and Alameda County Flood Control District.
- A-24. Final fencing design along the southern property line adjacent to the flood control channel is subject to review and approval by Alameda County Flood Control District.
- A-25. The color schemes chosen for the detached townhome units shall be subject to further review and approval by staff during Development Organization review to ensure greater variation in contrast.
- A-26. Traffic calming methods such as speed humps and speed tables shall be incorporated into the project subject to the review and approval of staff during the Development Organization review process. Where appropriate, crosswalks with special paving material shall be incorporated into the speed tables.
- A-27. The applicant shall work with staff to maximize on-street guest parking within the development to the extent feasible.
- A-28. An Emergency Vehicle Access Easement (EVAE) shall be provided between this project and adjacent project to the north. The final location and design of this EVAE shall be subject to review and approval of the Fremont Fire Department.

**Landscape Conditions**

- L-1. The following on site trees are to be preserved: Tree No. 120, 121, 122, (all 3 are Coast Redwood Trees). Additional trees shall be further reviewed for the suitability of preservation prior to the issuance of any demolition permits for the site subject to approval by the City Landscape Architect.
- L-2. Landscape plans shall be coordinated with civil engineer drawings to provide compliance with C3 standards for stormwater treatment through landscape features.
- L-3. Infiltration planters shall be installed in the podium building.
- L-4. All site amenities in the Community Park, including the playground equipment, shall be fully accessible. The playground area shall be designed and installed to be in compliance with the California Code of Regulations, Title 22, Div 4, Chap 22, Safety Regulations for Playgrounds.

- L-5. Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
- a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
  - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
  - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
- L-6. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail SD-34 City Standard Street Tree Clearances. In order to install all the trees shown on the "Landscape Concept Plan" utilities may require relocation subject to staff approval during Tract Improvement Plan review and Development Organization review.
- L-7. A landscape plan shall be submitted to the Development Organization or the with Final Map Improvement Plans, or both, as directed by the City Landscape Architect, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
- a. An underground irrigation plan.
  - b. Weed control specifications
  - c. A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - d. Construction details of raised planters, walkways, paths, benches, walls, fences, trellised, and other architectural features as appropriate to the project.
- L-8. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. A copy of the LDRP's is available at the Engineering Counter.
- L-9. The applicant shall submit landscape and irrigation plans for all front yard landscapes for staff review during the Tract Improvement Plan and/or the Development Organization review processes.
- L-10. Street trees shall be planted along Kato Road and Warm Springs Boulevard per City's Standards, subject to review and approval of City's Park Supervisor.

### **Engineering Conditions**

- E-1. Tentative tract map, preliminary grading plan, and private street applications shall be submitted for Planning Commission review and approval, and may be subject to modifications at the time of review.
- E-2. Prior to Planning Commission consideration of a tentative map for this project, the developer and design team shall work with staff to eliminate any building encroachment into the planting easement and sidewalk easement; or prior to Planning Commission consideration of a tentative map for this project, the developer shall apply for and receive approval of an easement vacation for portions of the existing easements.
- E-3. The applicant shall submit with the tentative map application a concept-striping plan for Warm Springs Boulevard from the intersection at Kato Road to the City boundary with Milpitas.
- E-4. The applicant shall submit with the tentative map application a concept-striping plan for Kato Road from the intersection at Warm Springs Boulevard to the at-grade railroad crossing to the west.
- E-5. The developer shall install complete street improvements to the centerline of Warm Springs Boulevard across the project frontage. Warm Springs Boulevard is a major four-lane thoroughfare with a pavement width of eighty-four feet. Required improvements include, but are not limited to: installation of sidewalk; replacement of existing damaged

and/or displaced curb, gutter, and pavement, to the centerline of Warm Springs Boulevard; modify the existing striping and signing; and remove existing overhead utilities and install them underground. The existing curb ramp at the intersection of Warm Springs Boulevard and Kato Road shall be reconstructed to current City standards. The extent of repair or replacement of existing improvements shall be determined by the City Engineer during the review of subdivision improvement plans.

- E-6. The developer shall install complete street improvements to the centerline of Kato Road across the project frontage. Kato Road is four-lane thoroughfare with a pavement width of sixty-eight feet. Required improvements include, but are not limited to: removal of existing sidewalk; installation of new sidewalk; replacement of existing damaged and/or displaced curb, gutter, and pavement to the centerline of Kato Road; and modify the existing striping or signing. The extent of repair or replacement of existing improvements shall be determined by the City Engineer during the review of subdivision improvement plans.
- E-7. Prior to the final map and subdivision improvement plans being scheduled for City Council, ACFC&WCD shall have conditionally approved the vacation of a portion of the existing access easement, or conditionally approved vacation of the entire existing access easement.
- E-8. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
- E-9. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land and be recorded at the same time that the final map is recorded.

#### **Fire Department Conditions**

- F-1 The applicant shall install an automatic fire sprinkler system in all buildings for fire protection purposes. Waterflow and control valves must be monitored by a central alarm monitoring system and Central Station, except single family dwellings. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.
- F-2 Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standards Required: NFPA 13-D for single family dwellings, NFPA 13-R for attached dwellings and NFPA 13 for Podium building.
- F-3 The applicant shall provide the Fremont Fire Department with a site plan/ Civil Utility Plan for approval of public and on-site fire hydrant locations.
- F-4 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- F-5 The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. UFC 902.2.1.
- F-6 The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the U.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.
- F-7 Buildings over 35' in height require fire apparatus roadways with a minimum 26' width. Set back from buildings must equal 1/4 height of the building plus a 26' roadway. Ex: 4 story 48' peak roof divided by 1/4 = 12' setback, plus 26' roadway. If a fire hydrant is required, the road must be 26 foot wide for 20 feet on both sides of the hydrant(s).
- F-8 Address must always be visible from Public Street or PVAW.
- F-9 Any/all new street names and addressing shall be approved by the Fire Department.

- F-10 A driveway access serving one dwelling/structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (UFC 1994, Sec. 902.2 as amended)
- F-11 Fire hydrant spacing requirement is: 300 feet. The distance is measured as the fire engine travels on all-weather surfaces.
- F-12 The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.